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BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application of Costco Wholesale Corporation
Square 4327, Lot 5

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PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by Costco Wholesale Corporation, as owner of property located at Square 4327, Lot 5, (the "Site"), in support of its application pursuant to 11 DCMR § 3104.1 for a special exception pursuant to §726.1, §706 and §2302 to permit the construction of a gasoline service station in the C-2-B District at the Site.

Pursuant to §3113.8 of the Zoning Regulations, the Applicant will file its prehearing statement with the Board no fewer than 14 days prior to the public hearing date. In that statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested relief.

I. Background

The Site includes Lot 5 in Square 4327. Lot 5 has a land area of approximately 93,598 square feet and is currently unimproved. Square 4327 is located in the northeast quadrant of the District of Columbia and is generally bounded by Fort Lincoln Drive, N.E., New York Avenue, N.E., South Dakota Avenue, N.E., and 33rd Place, N.E. The Applicant proposes to construct a gasoline service station on the Site. The gasoline service station will include 16 pumps and 8 drive aisles. Other than a 44 square foot controller enclosure and a pump island canopy, there will be no other above-grade structures or uses constructed on the Site.

II. Burden of Proof for Special Exception

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the relief requested are met. In reviewing an application for special exception relief, "[t]he Board's discretion ... is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C. 1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.*

Pursuant to Section 726.1 of the Zoning Regulations, a gasoline service station is permitted in a C-2 District as a special exception if approved by the Board of Zoning Adjustment under Section 3104, subject to the provisions of Section 706 and Chapter 23 of the Zoning Regulations. The Applicant complies with the special exception standards as follows:

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1. **Section 706.1 - A gasoline service station established or enlarged after May 12, 1958, shall be permitted in a C-1 District as a special exception if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of chapter 23 of this title and the provisions of this section.**

This provision is a statement of the standards by which this application must be reviewed. As described in more detail below, this application meets the standards for special exception approval.

2. **Section 706.3 - The station shall not be located within twenty-five feet (25 ft.) of a Residence District unless separated from the Residence District by a street or alley.**

The Site is located in the C-2-B District. The properties located 25 feet to the immediate north, south, east, and west of the Site are also located in the C-2-B District. Thus, the proposed station will not be located within 25 feet of a residence district and the application therefore complies with this provision.

3. **Section 706.4 - The operation of the use shall not create dangerous or other objectionable traffic conditions.**

The Applicant has retained Wells & Associates to conduct a traffic study to determine the impacts of the proposed gasoline service station. The operation and use of the proposed gasoline service station on the Site will not create dangerous or other objectionable traffic conditions given that the gasoline service station has been designed to provide substantial space on the Site for the queuing of 56 vehicles, and any additional cars will be able to queue on the Site; the station includes 22-foot drive aisles and 9-foot bypass lanes, both of which provide ample space for cars to leave the queue lanes if necessary; and the gasoline service station can only be used by Costco members. Thus, the application complies with this provision.

4. **Section 706.5 - The Board may impose requirements pertaining to design, appearance, screening, or lighting, or other requirements it deems necessary to protect adjacent or nearby property.**

As shown on the site plan included with the application, the gasoline service station has been sited and designed so as to minimize any impacts. The Site is surrounded by commercial uses to the north and east, and by New York Avenue, N.E. and South Dakota Avenue, N.E. to the south. The closest residential uses are approximately 700 to 1000 feet away from the Site. Moreover, as shown on the site plan, the Applicant will be installing a landscape buffer along the southern portion of the Site. Therefore, there is no need for the Board to impose any conditions regarding design, appearance, screening, or lighting in this case.

5. **Section 706.6 - Required parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces provided under this subsection shall be designed and operated so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space.**

Section 2101.1 of the Zoning Regulations provides that as gasoline service station in all zone districts is required to provide 1 off-street parking space for each 300 square feet of gross floor area, excluding any pump island canopy and any kiosk adjacent to the pumps used exclusively as an attendant's shelter. As shown on the site plan included with the application, the only structure proposed is a 44 square foot controller enclosure. Moreover, the area under the proposed pump island is explicitly excluded from the parking calculation. Therefore, there are no required parking spaces for this gasoline service station. Nonetheless, the parking spaces included on the Site have been designed so that sufficient access and maneuvering space is available to permit the parking and removal of any vehicles without moving any other vehicle onto public space. Thus, the application complies with this provision.

6. **Section 2302.1 - A public storage garage, repair garage, mechanical parking garage, or gasoline service station established or enlarged in any district except in the C-M or M Districts shall be subject to the provisions in this section.**

This provision is a statement of the standards by which this application must be reviewed. As described in more detail below, this application meets the standards for special exception approval.

7. **Section 2302.2 - No portion of the structure or premises to be used for any of the uses listed in § 2302.1 shall be located within twenty-five feet (25 ft.) of a Residence District unless separated from that Residence District by a street or alley.**

The Site is located in the C-2-B District. The properties located 25 feet to the immediate north, south, east and west of the Site are also located in the C-2-B District. Thus, the proposed station will not be located within 25 feet of a residence district and the application complies with this provision.

8. **Section 2302.3 - No use listed in § 2302.1 shall have a vehicular entrance or exit connected with a street at a point closer than twenty-five feet (25 ft.) to any Residence District existing at the time the use is established, unless separated from the Residence District by a street or alley.**

The nearest residential zone district and residential uses to the Site are over 700 to 1,000 feet away. Moreover, as shown on the site plan included with this application, the vehicular entrance and exit for the proposed gasoline service station connects with a street that is adjacent to properties zoned C-2-B. Thus, the application complies with this provision.

9. **Section 2302.4 - No driveway of any entrance or exit to any use listed in § 2302.1 shall be closer than forty feet (40 ft.) to a street intersection as measured from the intersection of the curb lines extended.**

As shown on the site plan included with this application, the vehicular entrance and exit for the proposed gasoline service station is approximately 325 feet from the nearest intersection, and thus the application complies with this provision.